

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KEVIN A. MACGREGOR,)	No. C 13-2309 RMW (PR)
)	
Plaintiff,)	ORDER GRANTING MOTION FOR
)	ENTRY OF DEFAULT AGAINST
v.)	DEFENDANT DR. MARTIN;
)	DIRECTING CLERK TO ENTER
DR. MARTIN, et al.,)	DEFAULT; DIRECTING DR.
)	MARTIN TO RESPOND
Defendants.)	
)	(Docket No. 43)

Plaintiff, a state prisoner proceeding pro se, filed a civil rights complaint against prison officials at San Quentin State Prison ("SQSP"), pursuant to 42 U.S.C. § 1983. Plaintiff has requested an entry of default against defendant Dr. Martin. (Docket No. 43.) Dr. Martin returned an executed waiver of service on October 6, 2014. (Docket No. 32.) Since, Dr. Martin has not responded to the court's order to show cause and has failed to communicate with this court. For the reasons stated below, plaintiff's request is GRANTED.

Rule 55(a) of the Federal Rules of Civil Procedure requires that the clerk of the court enter default "when a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defense, and that failure is shown by affidavit or otherwise." Fed. R. Civ. P. 55(a). Rule 55(b)(2) provides that the court may grant a default judgment after default has been

1 entered by the clerk of the court. Thus, the clerk is directed to enter the default of Dr. Martin,
2 pursuant to Rule 55(a).

3 Dr. Martin is directed to file **within thirty (30) days** of the filing date of this order a
4 motion to set aside the default for good cause to avoid a default judgment under Rule 55. **The**
5 **failure to comply may result in a default judgment being entered against Dr. Martin.**

6 The clerk shall serve a copy of this court's order of service and this order upon Dr.
7 Timothy B. Martin, D.O. at the confidential address provided in docket number 26 by the San
8 Quentin State Prison.

9 This order terminates docket no. 43.

10 IT IS SO ORDERED.

11 DATED: 1 10 15


RONALD M. WHYTE
United States District Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KEVIN A. MACGREGOR,
Plaintiff,

v.

M.D. MARTIN, et al.,
Defendants.

Case No. [13-cv-02309-RMW](#)

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on May 28, 2015, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Kevin A. MacGregor ID: V-94008
Bldg #A-5,138
High Desert State Prison
PO Box 3030
Susanville, CA 96127

Dated: May 28, 2015

Richard W. Wieking
Clerk, United States District Court

By: _____
Jackie Lynn Garcia, Deputy Clerk to the
Honorable RONALD M. WHYTE

United States District Court
Northern District of California